



December 29, 2021

The Honorable Kamala Harris
President, United States Senate
Washington, D.C. 20510

Dear Madam President:

Enclosed is the Secretary of Labor's response to the Office of the Ombudsman's 2020 Annual Report. Pursuant to 42 U.S.C. § 7385s-15(e)(2), the Ombudsman's report provides Congress with the number and types of complaints, grievances, and requests for assistance received by his office during each calendar year and an assessment of the most common challenges encountered by claimants and potential claimants under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA).

The administration of EEOICPA involves the coordinated efforts of four federal agencies: the Department of Labor (DOL), the Department of Energy, the Department of Health and Human Services, and the Department of Justice. DOL, through its Office of Workers' Compensation Programs (OWCP), Division of Energy Employees Occupational Illness Compensation, has primary responsibility for administering EEOICPA, including the adjudication of claims for compensation and payment of benefits for illnesses covered under both Part B and Part E of the statute.

The Secretary is required to provide a response to Congress regarding the Annual Report that includes a statement of whether he agrees or disagrees with the specific issues raised by the Ombudsman. If he agrees with the recommendations, the response is to include a description of corrective actions that OWCP will take. If he disagrees, he is required to respond with reasons for the non-concurrence.

This report focuses on OWCP accomplishments in FY2020 and responses to the Ombudsman's recent recommendations. The Secretary delegates to the Director of OWCP the authority to respond to the Ombudsman's report.

Sincerely,

**CHRISTOPHER
GODFREY**

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GODFREY
Date: 2021.12.28 10:29:29 -0500

CHRISTOPHER J. GODFREY
Director

Enclosure



December 29, 2021

The Honorable Nancy Pelosi
Speaker, U.S. House of Representatives
Washington, D.C. 20515

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Date: 2021.12.28 10:30:33 -0500

CHRISTOPHER J. GODFREY
Director

Enclosure

OWCP RESPONSE TO THE OFFICE OF THE OMBUDSMAN'S 2020 ANNUAL REPORT TO CONGRESS

Introduction

In the 2020 Annual Report to Congress, the Ombudsman made a number of recommendations regarding the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) as it is implemented by the Department of Labor (DOL), Office of Workers' Compensation Programs (OWCP), Division of Energy Employees Occupational Illness Compensation (DEEOIC). OWCP/DEEOIC appreciates the Ombudsman's review of its implementation of the Energy Program and welcomes the opportunity to respond to concerns and recommendations presented in the annual report. The Ombudsman's Annual Report to Congress gives OWCP/DEEOIC an opportunity to consider both its achievements and areas of the Energy Program that need improvement. The Ombudsman made recommendations in each Chapter, which we will respond to in order of their appearance in the report.

Chapter 1 - Effectiveness of Outreach Efforts

1.1 Expand Outreach to Those with Technical Limitations/Access

Recommendation: In the 2020 Annual Report, the Ombudsman noted that the Energy Program's outreach serves two purposes: (1) it is a way to disseminate information to those who are not aware of the Energy Program; and (2) it offers an opportunity for claimants to ask questions and obtain additional information about the program. The Ombudsman commended OWCP for holding monthly webinars during the 2020 coronavirus (COVID-19) pandemic and noted that claimants found these webinars to be very helpful. However, the Ombudsman also expressed the concern that some claimants could not access the webinars and/or were not aware of them because they did not have access to, or had only limited access to, the internet. To ensure that information is disseminated as broadly as possible, the Ombudsman recommended that DEEOIC continue to expand its outreach and develop the means to effectively disseminate information to those who do not have access to, or have only limited access to, the internet.

Response: OWCP agrees that some claimants do not have access to, or have only limited access to, the internet, which presents a challenge. OWCP regularly identifies and implements ways to expand outreach and reach stakeholders. As a part of ongoing equity initiatives,¹ OWCP has identified that the program's underserved communities are typically low-income, from rural populations, and American Indians and/or those residing on American Indian reservations. Stakeholders from these populations may be more likely to have limited or no access to the internet and, therefore, may be unaware of updates posted on the OWCP/DEEOIC website. After further

¹ As a result of Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities through the Federal Government, OWCP developed an Agency Equity Plan in July 2021. OWCP is committed to finding ways to make a thoughtful and intentional focus on equity a routine part of how the agency does business. This plan identified areas of focus and provided a roadmap for how OWCP will advance equity by building it into the framework of our programs and administrative operations.

research and investigation, OWCP/DDEOIC plans to increase outreach to these populations and will continue to identify different ways to ensure broad dissemination of information to meet the needs of all stakeholders.

This past year, OWCP/DDEOIC faced unprecedented obstacles during the COVID-19 pandemic and managed to quickly adapt and provide various ways for claimants and stakeholders to continue to interact with DDEOIC. Generally, the Resource Centers conduct activities that involve face-to-face contact with claimants. For example, Resource Center staff attend community events, union meetings, retiree luncheons, health fairs, health and safety expos, Hazardous Waste Operations and Emergency Response (Hazwoper) classes, and farmers' markets. They provide information tables/exhibits and conduct presentations. They make covered facility site visits and arrange inserts into facility newsletters. These activities continued in fiscal year 2020, albeit in a limited capacity. In addition to various Resource Center activities, in fiscal year 2020 the program conducted seven in-person outreach events across the country, resulting in 582 contacts and 56 claims.

OWCP/DDEOIC will continue to look for ways to conduct more in-person outreach, as the pandemic comes to a close. We will also work with the former worker programs to have targeted mailings advertising those outreach events, to reach those without internet access.

1.2 Increase Targeted Outreach to Specific Employee Populations

Recommendation: The Ombudsman also expressed concern for former employees and surviving family members of employees of Atomic Weapons Employers (AWEs), beryllium vendors, uranium mines, uranium mills, and uranium ore transporters, whose companies changed ownership over time and whose former workers or surviving family members may not be aware that work done for a predecessor of the current company may qualify as covered employment under the EEOICPA. The Ombudsman noted that because the Department of Energy (DOE) employee rosters do not include individuals who worked for these types of employers, targeted outreach by DDEOIC is likely the only way these individuals or their surviving family members will learn of the program.

Response: OWCP agrees that there are limitations in reaching certain employees potentially served by the EEOICPA. OWCP makes every effort to reach out to all the populations served by the EEOICPA. For example, OWCP utilizes the DOE Former Worker Program to distribute announcements/letters when appropriate. Unfortunately, AWEs, beryllium vendors, uranium mines, uranium mills, and uranium ore transporters do not maintain comprehensive former employee lists that OWCP can rely on to target these potential claimants specifically. As such, OWCP is limited in the targeted outreach it can do to inform employees who worked for these specific employers. It is important to note that the Resource Center staff actively pursue referrals from existing claimants, which may aid in reaching other individuals that worked with them. Overall, referrals from current and former workers across all facility types accounted for 377 claims and 5,397 contacts in fiscal year 2020.

OWCP ensures that information on events and EEOICPA benefits is available on the OWCP website, news releases, email subscription services, and local newspaper advertisements.

Additionally, the Resource Center staff distribute brochures and program materials to churches, libraries, senior centers, physicians' offices, hospitals, drug stores, pharmacies, assisted living facilities, residential care facilities, hospice centers, beryllium support groups, senior ride services, the Red Cross, the Department of Veterans Affairs facilities, Departments on Aging, the Elks Lodge, and Chambers of Commerce. In fiscal year 2020, these efforts resulted in 21,585 contacts and in 1,596 claims across all facility types.

1.3 Inform Eligible Populations about RECA Sunset/Deadline

Recommendation: The Ombudsman noted that, with the Radiation Exposure Compensation Act (RECA) scheduled to expire in July 2022, eligible uranium miners, millers, and ore transporters must file a claim under Section 5 of RECA before the deadline in order to have the opportunity to automatically qualify for EEOICPA benefits. The Ombudsman recommended that OWCP undertake additional outreach efforts to inform these populations of workers or their surviving family members of the deadline by which they must file a claim for Section 5 RECA benefits.

Response: OWCP is aware of the upcoming sunset of the RECA. While the Department of Justice (DOJ) manages the RECA program and is the agency responsible for notifying populations of workers about the July 2022 filing deadline, OWCP does collaborate with DOJ on events and outreach to inform eligible stakeholders about potential benefits and changes to regulations. In February 2020, OWCP/DEEOIC held an outreach event in Santa Fe, New Mexico, which included representatives from DOJ. Additionally, after the switch to outreach through webinars due to the COVID-19 pandemic, OWCP collaborated with DOJ to design and host a RECA specific webinar in December 2020. This webinar covered the deadline for submission to DOJ, eligibility requirements, benefits, and historical information about the RECA program. The information presented at this webinar is available for reference on the DEEOIC website for those who may not have been aware of the webinar or who are unable to attend the live session.

DOJ posted the deadline to apply for RECA benefits on their website, and OWCP/DEEOIC remains in working groups with DOJ and will continue to support them during this time. It is important to note that while there is a deadline for new RECA applications for DOJ, OWCP/DEEOIC will continue to process payments for approved RECA beneficiaries applying for EEOICPA Part E benefits after the July 2022 sunset.

Chapter 2 – Medical Billing Issues

2.1 Ensure Faster Resolution of Medical Billing Issues

Recommendation: The Ombudsman stated that claimants and providers who approached their office with medical billing issues usually did so after their efforts to work with DEEOIC and/or DEEOIC's medical bill processing contractor proved unsuccessful. In most instances, when the Ombudsman forwarded the issue to DEEOIC, the medical bill issue was eventually resolved. The Ombudsman recommended that DEEOIC ensure that there is an effective way to promptly direct claimants and providers with medical billing issues to the personnel who can assist them in resolving their issues.

Response: OWCP/DDEOIC agrees that claimants and providers should have quick and reliable access to personnel who can assist them in resolving their billing issues. In fiscal year 2018, OWCP centralized the processes for medical benefits adjudication and bill processing functions in the DDEOIC, creating the Branch of Medical Benefits Adjudication and Bill Processing (Medical Benefits Branch or BMB) in the National Office. Within the BMB, the Medical Bill Processing Unit (MBPU) oversees the medical bill processing systems, transactions, and coding necessary to ensure prompt and accurate payment for approved medical benefits. The MBPU staff is comprised of experts in medical bill processing and a medical coding specialist, who are responsible for ensuring accurate processing of medical bills and timely payment to providers.

OWCP has a medical bill processing contractor that performs medical billing services for four OWCP Programs.² On April 27, 2020, OWCP transitioned from its previous contractor to another. OWCP gave advance notice of this transition to all active claimants and medical providers by mailing individual letters, notifying email subscribers, and posting website announcements. During this transition, OWCP did receive feedback from medical providers and stakeholders regarding the services of the central mailroom in San Antonio, Texas; the updated medical benefits identification card; and delays in the processing of medical bills for some cases. In response, OWCP completed thorough assessments of the operations and workflow at the central mailroom and determined that the best way to serve its stakeholders was to revert mail intake processing back to the London, Kentucky facility. The decision to return to using the London, Kentucky, central mailroom address necessitated another updated medical card for Energy Program claimants. The medical bill processing contractor started mailing new cards on August 28, 2020, with a mailing completion date of September 11, 2020. OWCP also met with the medical bill processing contractor's leadership team to reiterate the need for its staff to be adequately trained and capable of differentiating between EEOICPA claims, providers, and payment, versus other OWCP programs. To help speed processing, the medical bill processing contractor agreed to conduct additional training, routine knowledge checks, and supervisor monitoring of staff calls that would result in immediate additional training and corrective actions.

The DDEOIC Resource Centers provide frontline, one-on-one assistance to all DDEOIC customers, and in fiscal year 2020, 11,280 claimants contacted the Resource Centers for more information about covered medical services. In fiscal year 2020, the Resource Centers processed 1,957 Medical Reimbursement Forms and assisted another 3,757 claimants who had questions about medical reimbursements. They also assisted 223 medical providers with the enrollment process and addressed 18,899 billing issues. The Resource Centers provide frontline, one-on-one assistance to all DDEOIC customers; however, if further assistance is required for full resolution of an issue, the Resource Centers will direct calls to the appropriate person within the DDEOIC.

OWCP/DDEOIC encourages claimants to register through OWCP's Employees' Compensation and Operations Management Portal (ECOMP) in order to utilize the self-service functions of the medical bill processing contractor's web portal. The self-service functions provide access to information related to provider enrollment, claimants' accepted conditions, submitted

² OWCP provides benefits under the Federal Employees' Compensation Act, Black Lung Benefits Act, Longshore and Harbor Workers' Compensation Act, and the Energy Employees Occupational Illness Compensation Program Act.

authorizations, and bill payment, as well as copies of correspondence issued by the contractor. The status of case-specific information is also available via the medical bill processing contractor's Interactive Voice Response system. Medical providers have access to this same information directly through the medical bill processor's web portal.

OWCP/DEEOIC has recognized that stakeholders would benefit from an increased understanding of the medical benefits and reimbursement processes in general. In April 2021, DEEOIC offered a webinar on Medical Benefits Coverage, and in June 2021, offered a webinar on Medical Bill/Reimbursement Processing. OWCP/DEEOIC also provides a comprehensive Medical Benefits Brochure on its website. OWCP/DEEOIC will continue to look for ways to improve its communication to stakeholders regarding the processing of medical benefits claims and its billing processes.

2.2 Provide an Explanation When Medical Billing Issues Involve Coding Problems

Recommendation: The Ombudsman noted that when medical billing issues arise, claimants and providers need better guidance and assistance. Many of the medical bill issues that the Ombudsman encountered involved "coding problems." The Ombudsman stated that simply informing the claimant or provider that there was a coding problem did not provide the claimant or provider with the information needed to resolve the problem; rather, claimants and providers wanted to be directed to someone who could explain why the coding was wrong and the steps needed to fix it.

Response: OWCP agrees that when medical billing issues arise, claimants and providers need guidance, assistance, and an understanding of the steps taken to fix the problem. OWCP's Division of Administration and Operations (DAO) oversees the contractual requirements of the medical bill processing contractor and is responsible for keeping abreast of coding rules, regulations, and changes. In addition to establishing core requirements for codes, DAO works with individual OWCP programs and the medical bill processing contractor staff to implement reimbursement protocols that support each program's requirements for codes. DAO has acknowledged that there is a challenge in transitioning those requirements into an automated system and issues do arise. DAO actively analyzes the scope of any issues identified and the impact of any changes implemented in the coding schema of the bill processing system. When updates occur, or there are questions about coding, DEEOIC has worked closely with DAO, the medical bill processing contractor, the provider, and/or the claimant to identify, explain, and help resolve bills that were denied payment due to improper codes, and will continue to do so.

2.3 Coordinate with Provider to Resolve Medical Billing Issues

Recommendation: The Ombudsman noted that claimants found it frustrating to be in the middle of a dispute between DEEOIC staff and a medical provider regarding a medical billing issue. In contacting the Ombudsman, claimants with medical bill issues oftentimes were looking for a way to get DEEOIC and the provider to talk to each other, as opposed to using the claimant as the intermediary. The Ombudsman recommended that when necessary DEEOIC should work directly with the provider to resolve coding problems and other medical bill issues.

Response: As mentioned in 2.1 and 2.2 above, DEEOIC will touch base with DAO, the medical bill processing contractor, physician, and/or claimant, whenever necessary, to resolve a billing issue. OWCP/DEEOIC's ability to work directly with medical providers is limited to providers' willingness to provide direct contact information and spend time working with MBPU or DAO staff to identify and resolve billing issues. Often, the only contact information received is a general number for an institution and it is not possible to leave messages directly with billing coordinators. OWCP/DEEOIC will often contact the claimant to explain the medical billing issue and/or the reasons for a delay in medical bill payment; the intent is not to insert them as "intermediaries" into the process but to keep them informed of possible delays.

Chapter 3 – Medical Treatment Issues

3.1 Telemedicine: Expedite Policy Changes and Notify Stakeholders Quickly

Recommendation: The Ombudsman said that in early 2020 claimants and health care providers contacted their office inquiring about the availability of telemedicine during the COVID-19 pandemic. At that time, the Ombudsman found that DEEOIC had not yet taken steps to implement a telemedicine option for claimants. While DEEOIC did implement telemedicine as an option for medical treatment and for physician appointments to support authorization for in-home health care, the Ombudsman noted that DEEOIC did not implement telemedicine as quickly as some other Federal programs. The Ombudsman said that in this specific situation, and in general, DEEOIC needs to move quickly to update its policies and notify claimants and health care providers of policy changes in a timely fashion.

Response: In response to the COVID-19 pandemic, a number of cities, states, and localities implemented "shelter in place" and/or "stay-at-home" orders, requiring the closure of nonessential services and limiting the movements and travel of citizens. In response, OWCP/DEEOIC implemented procedures to allow for the use of telemedicine in place of non-emergency, routine medical appointments between physicians and EEOICPA claimants. The procedures allowed physicians to provide routine medical care for covered conditions through telemedicine, including phone, video conferencing, or similar technologies, without pre-authorization; utilize telemedicine to conduct home and residential health care and durable medical equipment evaluations; and bill for services, using appropriate telemedicine billing codes, listing the claimant's address as the location of delivery of the medical care.

OWCP/DEEOIC understood (and agrees) that it needed to move quickly to update its policies and notify claimants and health care providers of policy changes involving telemedicine. The Federal government's transition to telemedicine at the onset of the COVID-19 pandemic required a high level of clearance, including both Departmental and White House approval. Once DOL received approval, DEEOIC issued EEOICPA Bulletin 20-03, Telemedicine for Home and Residential Health Care and Durable Medical Equipment, on April 7, 2020, and EEOICPA Bulletin 20-04, Telemedicine for Routine Physician Appointments, on April 30, 2020. On September 30, 2020, and March 29, 2021, DEEOIC issued extensions of both of these bulletins. On September 9, 2021, DEEOIC issued EEOICPA Bulletins 21-05 and 21-06, again extending telemedicine to March 31, 2022. OWCP/DEEOIC notified stakeholders of the telemedicine option via its website, email

subscription service, policy Bulletins, updates to the Federal (EEOICPA) Procedure Manual, and in its June 25, 2020 webinar titled Updates for Stakeholders.

3.2 Delays in the Authorization for Medical Treatment and/or Home Health Care

Recommendation: The Ombudsman noted that in 2020, some claimants experienced delays in the authorization for medical treatment and/or home health care. The Ombudsman found that when their office contacted DEEOIC regarding a claimant's specific issue, DEEOIC was responsive. However, the Ombudsman said DEEOIC rarely provided an explanation to share with the claimant regarding why they had experienced the delay. Many claimants wanted to understand what, if anything, they could do differently to move their requests for medical treatment through the process more efficiently. The Ombudsman recommended that DEEOIC explain the reasons for a delay to the Ombudsman's office (or directly to the claimant), reiterate the process(es) to be followed, and let them know if there was anything the claimant could have done to speed the process.

Response: As mentioned previously, OWCP/DEEOIC centralized its processes for medical benefits adjudication and medical bill functions, creating the Branch of Medical Benefits Adjudication and Bill Processing (Branch of Medical Benefits or BMB) in the National Office. In fiscal year 2020, the BMB was still hiring to fill newly-created staff positions and was short-staffed. In addition, OWCP/DEEOIC was seeing an increase in the number of requests for medical benefits due to the growing home health care industry and the program's elderly claimant population. Since fiscal year 2020, OWCP/DEEOIC has made significant progress toward full staffing and training of new staff. The creation of the BMB and shift in responsibilities across DEEOIC has allowed for greater efficiency and timeliness of medical services. Claims examiners (CEs) and hearing representatives in the District Offices and FAB can now give greater focus to the adjudication of claims, while medical benefits examiners (MBEs) and bill processing/coding specialists give their full attention to the medical benefits and billing functions.

OWCP/DEEOIC agrees that it is important to explain to claimants the reasons for delays in the authorization of medical treatment and/or home health care. With the additional staffing, DEEOIC has seen improvement in DEEOIC's timeliness and efficiency in responding to medical requests and its ability to respond to claimant's questions regarding any delays; the agency anticipates even greater improvement in performance going forward.

3.3 Clarify Roles and Responsibilities of Players in DEEOIC Process

Recommendation: When contacting DEEOIC by phone, some claimants did not know the role of the person they spoke with and whether that person had the authority to assist them with their problem. Some claimants did not understand the differences between the Resource Center staff who answered their calls, versus a claims examiner, an MBE, and/or the staff for the medical bill contractor. Up until the point that a claim is accepted, claimants are most often in communication with Resource Center staff and their claims examiner. However, after a claim is accepted, an MBE may need to adjudicate a claim for medical treatment. Claimants have complained that they are confused by the MBE's role and scope of authority.

Response: As a result of DEEOIC’s centralization of medical benefits adjudication and medical billing functions, DEEOIC did receive questions from stakeholders regarding the roles and responsibilities of personnel within the BMB. DEEOIC agrees that some claimants do not understand the differences between the Resource Center staff who answer their calls, versus a claims examiner, an MBE, and/or the staff for the medical bill contractor, and should be given an explanation of those roles. OWCP/DEEOIC staff in the District Offices, FAB, National Office, and Resource Centers always identify themselves when they are on the phone and will accept and respond to any question presented by a caller. OWCP/DEEOIC agrees that if Resource Center staff who answer all inbound calls can’t answer a question, that they should provide clear guidance to the caller regarding who the best resource within the program would be (such as the claims examiner, MBE, or billing staff, depending on the issue) and why. Additionally, the Resource Center staff already assist callers through transferring the call (to the employee or voicemail) or by taking a message for that appropriate resource, in order to facilitate getting the caller a timely and accurate resolution to their issue.

3.4 Establish Procedures to Address Emergency Medical Situations

Recommendation: The Ombudsman recommended that DEEOIC ensure that it has procedures in place to effectively address emergency situations. A frequent complaint in fiscal year 2020 concerned the claimant’s inability to immediately talk to the MBE or other DEEOIC personnel. While as a general rule this can be frustrating to claimants, it is particularly problematic when time is of the essence.

Response: Emergency situations can arise and DEEOIC staff assist claimants and/or providers as quickly as possible when time is of the essence. Moreover, DEEOIC’s Resource Center staff assist with many situations and to identify which unit or individuals within DEEOIC can assist with the particular urgent situation. Emergency situations often involve home and/or residential health care (HRHC) requests. For example, following a hospital discharge, claimants may need HRHC on an emergency basis, for a limited time period, while their condition stabilizes. A claimant might also require an urgent change in the level and/or frequency of currently authorized services due to a change in his or her condition.

The DEEOIC has procedures in place for requesting and providing authorization for services in emergency situations (see Chapter 30, Section 11, of the Federal (EEOICPA) Procedure Manual.

OWCP/DEEOIC issues a medical benefits letter to every claimant awarded medical benefits under the EEOICPA. The letter lists the claimant’s approved medical conditions, related International Classification of Diseases (ICD) codes, and effective dates of coverage. It informs the claimant of the covered medical services that are payable, and the medical benefits policies. The letter also alerts the claimant to the fact that their medical provider must enroll with DEEOIC’s medical bill processing agent in order to bill DEEOIC directly; it provides a toll-free number for providers to call if they have questions about enrollment and billing. In addition, the claimant receives a medical benefits identification card (MBIC), along with an informational brochure explaining when and how to use the identification card.

Chapter 4 – Difficulties Understanding the EEOICPA Claims Process

4.1 Improve Claimant Understanding through Phone Interactions and Other Resources

Recommendation: The Ombudsman stated that many claimants do not have an authorized representative or their authorized representative is a family member who, along with the claimant, is unfamiliar with the EEOICPA. The Ombudsman indicated that because claimants did not understand the program, they were often confused about how to proceed through the adjudication process. The Ombudsman found that when they had questions, these claimants needed to be able to talk to someone who could provide clear and accurate guidance. In spite of the efforts undertaken by DEEOIC to answer telephone calls, in FY 2020 the Ombudsman continued to encounter claimants who said that when they contacted DEEOIC their messages were not returned or they were unable to talk to anyone who could assist them.

Response: The Ombudsman’s report notes that 34 of the 441 complaints for fiscal year 2020 stated that DEEOIC did not return phone calls or callers were unable to get through to their intended point of contact. DEEOIC’s Operational Plan does include standards for the performance, responsiveness, and timeliness of customer service. OWCP/DEEOIC disagrees with the generalization that phone calls and messages are not returned. The Operational Plan goal of “Responding to Telephone Inquiries” for fiscal year 2020 was 93 percent of calls responded to within one day, and 95 percent of calls responded to within two days. In fiscal year 2020, DEEOIC received over 105,352 phone calls; of these calls, DEEOIC completed 97.6 percent of return calls in one work day and 99.6 percent within two days. Fiscal year 2021 return rates remained consistent, with 97.04 percent of calls returned within one day and 99.4 percent within two days.

OWCP agrees that claimants need a great deal of assistance during the adjudication process. One common telephone request concerns access to case files. Starting in fiscal year 2022, employee claimants and their authorized representatives will have direct access to their case files in ECOMP. Implementing this system will reduce phone call requests for case files, increase customer satisfaction, decrease the time it takes for claimants to access these files, and reduce the staff burden in copying and mailing case files to claimants. Additionally, DEEOIC is rolling out several website and training improvement initiatives in fiscal year 2022. Current projects include revising the Resource Center webpage in order to provide clarification on roles and responsibilities of DOL and contracted employees throughout the benefits process.

4.2 Improve Resource Center Assistance

Recommendation: The Ombudsman stated that the assistance provided by the Resource Centers continues to be an area of concern; the Ombudsman’s office talked to claimants who complained about the lack of assistance provided by some of the personnel at the Resource Centers. The Ombudsman recommended that DEEOIC review and evaluate the assistance offered by its Resource Centers. It is clear that the Resource Centers do offer assistance; rather, the issue is the nature and extent of the assistance offered. The narrative stated that the Ombudsman’s Office would continue to explore the level of assistance provided by the Resource Centers in fiscal year 2021.

Response: The Ombudsman’s Report recommendation does not clearly state what areas they felt needed improvement at the Resource Centers. Additional information and examples would be helpful in order to respond appropriately to these concerns. DEEOIC does evaluate and monitor Resource Center assistance on a regular basis. The Resource Centers collect customer feedback surveys to understand their experience with the services the Resource Centers provide. In fiscal year 2021, the feedback from surveys collected was overwhelmingly positive. There were no areas of concern identified. Additionally, the Resource Center Contractor Officer’s Representative conducts quality assurance reviews of Resource Center services. The Resource Centers received exceptional ratings in each of the quality assurance reviews related to customer experience in fiscal year 2021.

DEEOIC agrees that claimants and providers need to clearly understand the services provided by the Resource Centers. DEEOIC is currently working to enhance and expand feedback mechanisms in an effort to further improve customer experience related to Resource Center services and the program overall. In fiscal year 2022, DEEOIC will review survey data and assess for any program improvements.

Chapter 5 – Issues Related to Impairment Claims

5.1 Improve Education on Impairment Claims Process

Recommendation: In 2020, the Ombudsman found that there was confusion surrounding the circumstances under which DEEOIC can grant an exception to the two-year rule for filing a claim for impairment. The Ombudsman stated that it was apparent based upon discussions with the claimants and authorized representatives and upon review of claim file information that some DEEOIC staff would benefit from further guidance on these topics. Not only would additional training assist in specific cases, such as the ones reported to the Ombudsman’s office, but would also likely result in greater consistency among impairment claims where claimants are seeking increased impairment benefits.

Response: Under the EEOICPA, a claimant may request re-evaluation of impairment every two years. However, there are circumstances in which a claims examiner may consider waivers of the two-year waiting period. These circumstances are specifically described in Chapter 21 of the Federal (EEOICPA) Procedure Manual. This Chapter provides guidance to claims staff on the procedures for evaluating a claim for permanent impairment. Even though the Federal (EEOICPA) Procedure Manual offers internal guidance to staff, it is also available on the DEEOIC website for claimants, providers, and the public to view. OWCP/DEEOIC agrees that training is appropriate, and provides training for claims staff when they are initially hired; this training includes the procedures for handling impairment claims. OWCP/DEEOIC also offers education to all claims staff on any updated procedures. DEEOIC’s workshops for authorized representative always include a session on Impairment and Wage Loss under the EEOICPA. Additionally, in September 2020, OWCP/DEEOIC provided a webinar on impairment and wage loss claims. OWCP/DEEOIC agrees with the Ombudsman that training for claims staff should include evaluation of impairment claims and the mention of waivers of the two-year requirement.

5.2 Clarify Medical Director Role and Involvement in Overall Process

Recommendation: The Ombudsman received a number of complaints regarding the involvement of the OWCP Medical Director in the adjudication of individual impairment claims. The Ombudsman expressed concern that DEEOIC did not notify claimants and/or their authorized representatives of reports prepared by the Medical Director (nor did DEEOIC provide them) when the opinion of the Medical Director was being considered as evidence in individual claims. The Ombudsman said it would be helpful to claimants and their authorized representatives to understand the role of the Medical Director in such instances, and to receive a notice and the timeline by which reviews by the Medical Director are being conducted in individual claims. The Ombudsman said that, at a minimum, it would be helpful to claimants and the physicians performing impairment evaluations for them to have a full explanation regarding why the reports are rejected, sometimes even after the physician provides an amended report.

Response: In the past, DEEOIC's Medical Officer has had a role in the impairment process; however, in the 2021 update to the Federal (EEOICPA) Procedure Manual, DEEOIC changed the process and now relies on treating physicians or Contract Medical Consultants (CMCs) for impairment evaluations and in resolving disputes concerning impairment evaluations. DEEOIC does require the Medical Officer's review of a claimant's request for an organ transplant or experimental treatments; Chapter 29 of the Federal (EEOICPA) Procedure Manual explains the process by which this review takes place.

Chapter 6 – Customer Service, Delays, and Other Administrative Issues

6.1 Review Callback Policy

Recommendation: The Ombudsman recommended that DEEOIC review its procedures to ensure that when a claimant leaves a message, someone responds to that message as quickly as possible. In that regard, when DEEOIC personnel indicate that they have returned a call, the question remains as to whether they actually spoke with the caller or were simply leaving a message for the caller. In comparing DEEOIC's reported high rates of returned calls to the nature of the complaints received, the Ombudsman said it appears many calls are likely reported as "returned" without anyone having spoken to the caller. The Ombudsman said it would perhaps be helpful for DEEOIC to provide guidance or track when DEEOIC or Resource Center staff connect with and speak to the person who left a message. The Ombudsman acknowledged that questions asked by claimants cannot always be fully answered on the spot. Rather, research and review of the case is sometimes required before a full answer can be provided. Thus, where review/research is necessary before an answer can be given, DEEOIC should explain: (1) how promptly will the claimant receive a response, and (2) will someone be available for any follow-up the claimant may require.

Response: With regard to DEEOIC's call back policy, when review or research is necessary before DEEOIC gives an answer to a stakeholder on the phone, Resource Center staff inform callers that they will receive a call within two business days. If the caller has follow-up questions, the caller has the opportunity to discuss those with the claims examiner who returns the call. If questions or concerns arise after the call is returned, the caller has the option of calling and requesting to be transferred to the claims examiner they spoke with.

Oftentimes when DEEOIC staff returns phone calls, they get claimants' answering machines and will leave messages. While our system does not currently have a mechanism for tracking the number of times a message is left with a caller, DEEOIC agrees that claimants should be informed of the time and/or follow-up that may be required to provide a response to an inquiry. In FY 2021, DEEOIC conducted customer service training with all staff, focusing on the importance of taking a phone call directly versus making a return call. DEEOIC will continue to evaluate ways to address this concern in fiscal year 2022.

Currently, an optional telephone survey helps measure the stakeholder's perceived effectiveness of the DEEOIC phone system. In fiscal year 2022, DEEOIC will launch a new phone survey with revamped questions to gather actionable data and insights. This will allow DEEOIC to review overall satisfaction while utilizing the phone systems and to identify how to improve the phone call process.

6.2 Provide Impartial Customer Service Point-of-Contact

Recommendation: The Ombudsman talked to claimants with accepted claims who nevertheless had a negative opinion of the Energy Program due to rude or insensitive comments directed to them by DEEOIC personnel. While DEEOIC has expressed its commitment to good customer service, the Ombudsman said he continues to be approached by claimants who complain of rude or insensitive comments. The Ombudsman has long believed that it would be best if DEEOIC could hear directly from those who encounter what they believe are rude or insensitive comments. Yet, most claimants are reluctant to contact DEEOIC directly with such complaints. Claimants generally believe it is not in their best interest to complain to DEEOIC about the conduct of its staff.

The Ombudsman indicated that if DEEOIC is interested in hearing these complaints, it needs to develop a procedure that claimants feel comfortable using. The Ombudsman continues to believe that a single point-of-contact for complaints concerning poor customer service would encourage claimants to contact DEEOIC, and would especially be effective if claimants were aware that this point-of-contact was specifically designated to receive such complaints and was not otherwise involved in the adjudication of their claim. The Ombudsman noted that recording DEEOIC and Resource Center telephone conversations is an alternative that may serve as both a check and deterrent to the behaviors that claimants and their authorized representatives have complained about.

Response: The Ombudsman's Report noted that 15 complaints were received in fiscal year 2020 relating to rude or insensitive comments. The Ombudsman did not provide additional information or examples related to the rude or insensitive comments in the Ombudsman's Report. OWCP/DEEOIC has consistently over the years disagreed with the Ombudsman's idea of a single point-of-contact for complaints concerning poor customer service. DEEOIC trains all staff to be courteous, professional, flexible, honest, and helpful. OWCP seeks to deliver services in a timely and accurate manner and to ensure that stakeholders are satisfied with the provided service. To accomplish this, OWCP staff receive a Telephone Communication Skills training and have access to additional optional customer service-centered training in DOL's *LearningLink* e-training

solution. Additionally, DEEOIC completed a call monitoring project in fiscal year 2021. In this project, DEEOIC reviewed Resource Center telephone interactions based on several criteria and summarized for management. The major takeaway was that the Resource Centers do a very good job answering phone calls from inbound external stakeholders.

OWCP's website provides contact information for all of its offices, including the DEEOIC National Office, DEEOIC Field Operations, FAB, District Offices, and Resource Centers. OWCP encourages stakeholders who need assistance to submit correspondence to or call any one of these offices, call the toll-free phone numbers, or visit a Resource Center. Stakeholders have several options if they wish to submit a comment or complaint. Stakeholders may contact their claims examiner or hearing representative (or a unit supervisor or branch chief) if they have case-related concerns. Stakeholders may also submit questions or comments by phone, public email at DEEOIC-public@dol.gov, through customer satisfaction surveys, or written correspondence to the DEEOIC Director, OWCP Director, or DOL's Executive Secretariat. OWCP responds promptly to all comments and concerns.

In fiscal year 2021, the DEEOIC Branch of Technical Assistance and Outreach hired a Customer Experience Strategist and a Stakeholder Engagement Analyst. The mission of this team includes soliciting feedback from stakeholders, collecting and analyzing the data, then making programmatic and procedural recommendations based on the data. This team deployed a survey to 2,000 claimants and subsequently contacted 200 claimants by phone who indicated that they wanted to speak with someone on the Customer Experience team. Feedback has been collected and will be used to make recommendations. DEEOIC will disseminate additional surveys throughout fiscal year 2022 with the goal of continual feedback gathering and analysis. This team will also be responsible for implementing the call monitoring project during the upcoming fiscal year.

Chapter 7 – Other Complaints in Fiscal Year 2020

7.1 Improve Quality Control on Referrals to Industrial Hygienist and Contract Medical Consultants (CMCs) and Associated Reports

Recommendation: The Ombudsman noted that claims examiners frequently request input from industrial hygiene contractors and CMCs during the claims adjudication process. The Ombudsman indicated that in fiscal year 2020, complaints were raised regarding the issue of whether the review of referrals to Industrial Hygienists (IH) and the reports drafted by IHs and CMCs were adequately performed. The Ombudsman stated that instances of incorrect information being supplied to IHs and CMCs were brought to their attention. The Ombudsman recommends that DEEOIC undertake additional efforts to review the accuracy of the referrals and expert opinion reports, perhaps by having supervisory staff review the referrals and reports. A further recommendation is to provide claimants and their authorized representatives with copies of the referrals and reports by contract IHs and CMCs prior to a decision being issued in the claim.

Response: OWCP agrees that the accuracy of referrals and experts opinion reports is important and has robust quality control mechanisms in place to review IH and CMC referrals. For IH referrals, non-journey level claims examiners prepare an IH referral package for approval by

their supervisor or other office designee. After the IH referral is sent to the DEEOIC IH team, IH staff complete an additional cursory review in which they determine if it is necessary to obtain clarification directly from the claims examiner or claimant regarding the circumstances of an employee's work that brought them into contact with a particular toxic substance. In these situations, claims examiners and claimants would be able to help address any issues prior to the completion of the IH report. In addition, every IH report undergoes a second level review before being returned to the claims examiner.

For CMC referrals, each District Director designates a Claims Assistant (CA) who processes and tracks CMC referrals. The CAs conduct thorough reviews of the referral packages to ensure all required documentation is present, questions to the CMC are clear, and imaged records are legible. The CMC contractor also inspects the referrals to ensure that relevant factual findings have been reached that will allow for a comprehensive and reliable analysis. Throughout this process, there is a system in place that allows the CMC to request additional information or clarification from the claims examiner. Additionally, after a CMC submits their report to the contractor, the contractor performs a quality control review to ensure that the report is complete, rationalized, and fully responsive to the questions posed by the claims examiner.

In addition to the quality control mechanisms in place during the processing of referrals, Supervisory Claims Examiners regularly sample the work of claims examiners to ensure the accuracy of their work. OWCP created a standardized computer system Supervisors use to review the work of claims examiners. If a CMC or IH referral was completed during the processing of a sampled claim, the supervisor is required to thoroughly review the referral for accuracy. If errors are found, they are presented to the claims examiner and if necessary, additional training is provided.

In regard to providing IH and CMC referrals and reports to claimants and ARs, when claimants receive a recommended decision that is a denial, the reports are included with that decision. If a claimant does not agree with the recommended decision, or they believe that the IH or CMC reports are incorrect, they have the right to file objections or request a hearing.

Conclusion

OWCP remains fully committed to administering its responsibilities under the EEOICPA, to provide benefits to eligible employees (or to eligible survivors of employees), including lump-sum compensation under Part B, wage-loss or impairment benefits under Part E, and medical benefits under Part B and/or Part E of the EEOICPA. Since the establishment of the EEOICPA to the end of fiscal year 2020, the Energy Program had awarded approximately 127,000 claimants compensation and medical benefits totaling over \$18.52 billion. This included \$12.37 billion in compensation and \$6.15 billion in medical expenses. In fiscal year 2020, the Energy Program provided benefits to 17,327 individual claimants. OWCP/DEEOIC stands ready to work with the Ombudsman to ensure that claimants, authorized representatives, medical providers, and other stakeholders receive the best service possible.